

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION - DETROIT**

**IN THE MATTER OF:**

PATRICIA ANDERSON,  
DAVID ANDERSON  
Debtors.

CHAPTER 13  
CASE NO. 08-51255-SWR  
JUDGE STEVEN W RHODES

**TRUSTEE'S OBJECTION TO THE DEBTORS' CLAIMED EXEMPTION**

**NOW COMES** the Chapter 13 Trustee, Krispen S. Carroll, and objects to the debtors' claimed exemption, and states:

1. Trustee objects to debtor wife's exemption in retirement 403(b) and 401(a) in the amount of \$116,781.00 under MCL 600.5451(1)(m) as the exemption does not apply to any amounts contributed within 120 days before the bankruptcy filing. Trustee requests documentation regarding the contributions made during that time period.

**WHEREFORE**, the Chapter 13 Trustee prays this Honorable Court deny the debtors' claimed exemption and provide such other and further relief as this court deems just and appropriate.

OFFICE OF THE CHAPTER 13 TRUSTEE-DETROIT  
Krispen S. Carroll, Chapter 13 Trustee

July 7, 2008

\_\_\_\_\_  
/s/ Margaret Conti Schmidt  
KRISPEN S. CARROLL (P49817)  
MARGARET CONTI SCHMIDT (P42945)  
MARIA GOTSIS (P67107)  
719 Griswold Street  
1100 Dime Building  
Detroit, MI 48226  
(313) 962-5035

**UNITED STATES BANKRUPTCY COURT  
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**ORDER GRANTING TRUSTEE'S OBJECTION  
TO THE DEBTORS' CLAIMED EXEMPTION**

This matter having come to be heard upon the Trustee's Objection to the Debtors' Claimed Exemption filed pursuant to E. D. Mich. LBR 9014-1, the Objection having been duly served on Debtors' counsel and the last known address of the Debtors and the requisite time having passed without objection having been timely served, a Certificate of No Response having been filed and the relief requested in the Objection being warranted, and the Court being otherwise sufficiently advised in the premises;

**IT IS HEREBY ORDERED** that the debtor wife's exemption in retirement 403(b) and 401(a) in the amount of \$116,781.00 under MCL 600.5451(1)(m) is hereby denied.

**EXHIBIT "A"**

**UNITED STATES BANKRUPTCY COURT  
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**BRIEF IN SUPPORT OF TRUSTEE'S OBJECTION TO  
THE DEBTORS' CLAIM OF EXEMPTIONS**

**NOW COMES** the Chapter 13 Trustee, Krispen S. Carroll, and in support of the Objection to the Debtors' Claim of Exemptions relies on 11 U.S.C. § 522 and state statutes, if applicable, as authority for the allowance of appropriate exemptions. Further, the Trustee would assert that without complete disclosure of information in debtors' Chapter 13 Schedules, a proper determination of the allowance of exemptions cannot be made.

OFFICE OF THE CHAPTER 13 TRUSTEE-DETROIT  
Krispen S. Carroll, Chapter 13 Trustee

July 7, 2008

\_\_\_\_\_/s/ Margaret Conti Schmidt  
KRISPEN S. CARROLL (P49817)  
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**NOTICE OF TRUSTEE'S OBJECTION TO THE DEBTORS' CLAIMED EXEMPTION**

The Chapter 13 Trustee has filed papers with the court to deny the debtor wife's exemption in retirement 403(b) and 401(a) in the amount of \$116,781.00 under MCL 600.5451(1)(m).

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult with one.)**

If you do not want the court to deny the debtors' claimed exemption or if you want the court to consider your views on the debtors' exemption, within 15 days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at<sup>1</sup>:

**United States Bankruptcy Court  
211 W. Fort Street, Suite 2100  
Detroit, Michigan 48226**

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

**OFFICE OF THE CHAPTER 13 TRUSTEE - DETROIT  
ATTN: MOTION DEPARTMENT  
719 Griswold Street  
1100 Dime Building  
Detroit, MI 48226**

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the Trustee's Objection and you will be served with a notice of the date, time and location of the hearing.

**If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.**

OFFICE OF THE CHAPTER 13 TRUSTEE - DETROIT  
Krispen S. Carroll, Chapter 13 Trustee

July 7, 2008

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/s/ Margaret Conti Schmidt  
KRISPEN S. CARROLL (P49817)  
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bae <sup>1</sup>Response or answer must comply with F.R.Civ.P. 8(b), (c) and (e)

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**CERTIFICATE OF MAILING**

I hereby certify that on the date indicated below, I electronically filed **TRUSTEE'S OBJECTION TO THE DEBTORS' CLAIMED EXEMPTION, NOTICE OF TRUSTEE'S OBJECTION, and CERTIFICATE OF MAILING** with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

GUY T CONTI PLLC  
302 N HURON ST  
YPSILANTI, MI 48197-0000

and I hereby certify that I have mailed by United States Postal Service the above mentioned documents to the following non-ECF participants:

PATRICIA ANDERSON  
DAVID ANDERSON  
6245 SEQUOIA DRIVE  
YPSILANTI, MI 48197-0000

July 9, 2008

\_\_\_\_\_/s/ Barbara A. Ecclestone  
Barbara A. Ecclestone  
For the Office of the Chapter 13 Trustee-Detroit  
719 Griswold Street  
1100 Dime Building  
Detroit, MI 48226  
313/962-5035

bae